

# Notice of Allowability

## Application No.

10/511,685

## Examiner

SATYENDRA K. SINGH

## Applicant(s)

MOEN ET AL.

## Art Unit

1657

### - The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/14/2010.
2. ☒ The allowed claim(s) is/are 11,13,14,25-27,30,31,33,35 and 37.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

### THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.



#### **DETAILED ACTION**

##### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/14/2010 (along with the terminal disclaimer) has been entered.

Claim 32 has been canceled by applicant's amendments to the claims.

Claims 11, 13, 14, 25-27, 30, 31, 33, 35 and 37 (as amended) are currently pending and examined on their merits in this office action.

##### ***Terminal Disclaimer***

The terminal disclaimer filed on 04/14/2010 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of the copending application 10/504,463 (allowed on 11/06/2009) has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. William Simmons (attorney of record) on May 5<sup>th</sup> 2010.

The application has been amended as follows:

***In The Claims***

Claims 11, 30 and 37 have been amended as follows:

11. (currently amended): A sterile microorganism growth substrate comprising:

(a) a sterilized nutrient composition, wherein said composition is a biomass generated from bacterial cells by autolysis, optionally followed by ultrafiltration and evaporation, wherein said bacterial cells comprise *Methylococcus capsulatus* (Bath) (strain NCIMB 41526), *Ralstonia* sp. DB3 (strain NCIMB 41527), *Aneurinibacillus* sp. DB4 (strain NCIMB 41528) and *Brevibacillus agri* DB5 (strain NCIMB 41525), and wherein said bacterial cells are at least 50% by weight *Methylococcus capsulatus* (Bath) (strain NCIMB 41526) relative to the total bacterial weight;

(b) ~~at least one sterile nutrient, which is a carbon source, added to the biomass, wherein said at least one sterile nutrient is glucose;~~ and

(c) optionally a sterile diluent.

30. (currently amended): The substrate as claimed in claim 11, wherein the sterilized nutrient composition is a dried autolysate of ~~[[a]]~~ the bacterial biomass.

37. (currently amended): A sterile microorganism growth substrate comprising:

- (a) a sterilized nutrient composition, wherein said composition is a biomass generated from bacterial cells by autolysis followed by ultrafiltration and evaporation, wherein said bacterial cells comprise *Methylococcus capsulatus* (Bath) (strain NCIMB 41526), *Ralstonia* sp. DB3 (strain NCIMB 41527), *Aneurinibacillus* sp. DB4 (strain NCIMB 41528) and *Brevibacillus agri* DB5 (strain NCIMB 41525), and wherein said bacterial cells are at least 50% by weight *Methylococcus capsulatus* (Bath) (strain NCIMB 41526) relative to the total bacterial weight;
- (b) ~~at least one sterile nutrient, which is a carbon source, added to the biomass, wherein said at least one sterile nutrient is glucose;~~ and
- (c) optionally a sterile diluent.

### ***Conclusion***

Claims 11, 13, 14, 25-27, 30, 31, 33, 35 and 37 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SATYENDRA K. SINGH whose telephone number is (571)272-8790. The examiner can normally be reached on 9-5MF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JON P. WEBER can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Satyendra K. Singh/  
Examiner, Art Unit 1657

/JON P WEBER/  
Supervisory Patent Examiner, Art Unit 1657